

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

LEON WEINGRAD, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

IBAN GLOBAL LLC

and

LIVEFREE EMERGENCY RESPONSE,
INC. D/B/A LIFEBEACON

Defendants.

Case No. 24-4212

**REPLY IN FURTHER SUPPORT OF
DEFENDANT LIVEFREE EMERGENCY RESPONSE, INC.’S
MOTION TO DISMISS PLAINTIFF’S COMPLAINT UNDER RULE 12(b)(2)
FOR LACK OF PERSONAL JURISDICTION**

Defendant LiveFree Emergency Response, Inc. d/b/a LifeBeacon (“Defendant” or “LiveFree”), submits this Reply in Further Support of its Rule 12(b)(2) Motion to Dismiss (the “Motion”) the Class Action Complaint (“Complaint”) filed by Plaintiff Leon Weingrad (“Plaintiff” or “Weingrad”), individually, and on behalf of others similarly situated.

Plaintiff concedes that LiveFree is not subject to general jurisdiction in this District. Thus, the sole remaining question is whether LiveFree has engaged in conduct within this District sufficient to subject it to specific jurisdiction. Plaintiff’s arguments in favor of a finding of specific jurisdiction are premised upon the incorrect, and unsupported, assumption that LiveFree is vicariously liable for the acts of IBAN Global, LLC and therefore subject to specific personal jurisdiction in this District as a result of those acts. The Declaration of Joshua K. Chandler that LiveFree submitted in support of its Motion unambiguously states that IBAN Global, LLC does not act on behalf of LiveFree when making marketing calls, or otherwise. (ECF 8-1 at 20/Chandler

Dec. ¶¶ 6-12.) Rather, IBAN Global, LLC purchases and markets products it purchases from LiveFree on its own behalf and for its own benefit. (*Id.*). Thus, IBAN Global, LLC is not LiveFree's agent, and LiveFree cannot be vicariously liable (or vicariously subject to specific personal jurisdiction) because of anything IBAN Global, LLC did or did not do. None of the cases cited by Plaintiff hold to the contrary.

The Plaintiff has submitted no evidence contradicting the facts stated in the Declaration of Joshua K. Chandler. Instead, the Plaintiff relies wholly on allegations within his complaint. "This is an elementary mistake to establish personal jurisdiction plaintiff must go beyond the pleadings and make affirmative proof." *Chlebda v. H. E. Fortna & Bro., Inc.*, 609 F.2d 1022, 1024 (1st Cir. 1979) (citing *Murphy v. Erwin-Wasey, Inc.*, 1 Cir., 1972, 460 F.2d 661; *Weller v. Cromwell Oil Co.*, 6 Cir., 1974, 504 F.2d 927; 2 Moore's Fed. Practice (2d ed. 1979) P 4.41-1(3)); *see also Boit v. Gar-Tec Products, Inc.*, 967 F.2d 671, 675 (1st Cir. 1992) (finding that plaintiffs may not rely on unsupported allegations in their pleadings to make a *prima facie* showing of personal jurisdiction). The uncontroverted evidence LiveFree provided with its Motion establishes that LiveFree is not subject to specific personal jurisdiction in this District.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this date, October 22, 2024, I caused true and a correct copy of the foregoing **Reply in Further Support of Defendant LiveFree Emergency Response, Inc.’s Motion to Dismiss Plaintiff’s Complaint Under Rule 12(b)(2) For Lack of Personal Jurisdiction** to be electronically filed using the Court’s Electronic Case Filing System, where they are available for viewing and downloading by all counsel of record.

/s/ Stephen G. Harvey
Stephen G. Harvey